

for Danville
MAY 06 2008

UNITED STATES DISTRICT COURT

for the

Western District of Virginia

JOHN F. CORCORAN, CLERK

BY: *Fay Coleman*
DEPUTY CLERK

United States of America)

v.)

Jermaine Davis Penn)

Case No: 4:03cr70043-01

USM No: 10009-084

Date of Previous Judgment: September 10, 2004

(Use Date of Last Amended Judgment if Applicable)

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☐ the defendant ☐ the Director of the Bureau of Prisons ☒ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 70 months is reduced to 65 months.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 23

Amended Offense Level: 21

Criminal History Category: II

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Previous Guideline Range: 60* to 63 months

Amended Guideline Range: 60* to 60* months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☒ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ Other (explain):

*The amended guideline range has not changed because of the mandatory statutory minimum term of incarceration.

III. ADDITIONAL COMMENTS

The Government has objected to a reduction in the defendant's sentence, but finding that his pre-sentencing conduct was adequately considered in the previous judgment, and upon consideration of the factors set forth in 18 U.S.C. § 3553(a) and U.S.S.G. § 1B1.10, the Government's objections are overruled and the defendant's sentence is reduced as provided above.

The defendant's sentence consists of 25 months as to Count I and 40 months as to Count II, to be served consecutively. Except as provided above, all provisions of the judgment dated 9/10/2004 shall remain in effect.

IT IS SO ORDERED.

Order Date: May 6, 2008

Norman K. Moon
Judge's signature

Effective Date: May 6, 2008
(if different from order date)

Norman K. Moon, United States District Judge
Printed name and title